

2005 Assembly Bill 627

Date of enactment: **January 4, 2006**
Date of publication*: **January 19, 2006**

2005 WISCONSIN ACT 92

AN ACT *to amend* 5.51 (1), 5.84 (title), 5.90 and 5.91 (18); and *to create* 5.905 of the statutes; **relating to:** the size of type for text printed or displayed on ballots, electronic voting system standards, recount procedures, and software components, and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 5.51 (1) of the statutes is amended to read:

5.51 (1) The type face used on all paper ballots shall be easy to read, ~~and the type size may be no smaller than 8 point.~~

SECTION 2. 5.84 (title) of the statutes is amended to read:

5.84 (title) Testing of equipment; ~~custody of~~ requirements for programs and ballots.

SECTION 3. 5.90 of the statutes is amended to read:

5.90 Recounts. Except as otherwise provided in this subchapter, recounts of votes cast on an electronic voting system shall be conducted in the manner prescribed in s. 9.01. If the ballots are ~~in readable form~~ distributed to the electors, the board of canvassers may elect to recount the ballots without the aid of automatic tabulating equipment. If the board of canvassers elects to use automatic tabulating equipment, the board of canvassers shall test the automatic tabulating equipment to be used prior to the recount as provided in s. 5.84, and then the official ballots or the record of the votes cast shall be recounted on the automatic tabulating equipment. In addition, the board of canvassers shall check the ballots for the presence or absence of the initials and other distinguishing marks,

shall examine the ballots marked “Rejected”, “Defective” and “Objected to” to determine the propriety of such labels, and shall compare the “Duplicate Overvoted Ballots” and “Duplicate Damaged Ballots” with their respective originals to determine the correctness of the duplicates. If electronic voting machines are used, the board of canvassers shall perform the recount using the permanent paper record of the votes cast by each elector, as generated by the machines.

SECTION 4. 5.905 of the statutes is created to read:

5.905 Software components. (1) In this section, “software component” includes vote-counting source code, table structures, modules, program narratives and other human-readable computer instructions used to count votes with an electronic voting system.

(2) The board shall determine which software components of an electronic voting system it considers to be necessary to enable review and verification of the accuracy of the automatic tabulating equipment used to record and tally the votes cast with the system. The board shall require each vendor of an electronic voting system that is approved under s. 5.91 to place those software components in escrow with the board within 90 days of the date of approval of the system and within 10 days of the date of any subsequent change in the components. The board shall secure and maintain those software components in strict confidence except as authorized in this section.

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

Unless authorized under this section, the board shall withhold access to those software components from any person who requests access under s. 19.35 (1).

(3) The board shall promulgate rules to ensure the security, review and verification of software components used with each electronic voting system approved by the board. The verification procedure shall include a determination that the software components correspond to the instructions actually used by the system to count votes.

(4) If a valid petition for a recount is filed under s. 9.01 in an election at which an electronic voting system was used to record and tally the votes cast, each party to the recount may designate one or more persons who are authorized to receive access to the software components that were used to record and tally the votes in the election. The board shall grant access to the software components to each designated person if, before receiving access, the person enters into a written agreement with the board that obligates the person to exercise the highest degree of reasonable care to maintain the confidentiality of all proprietary information to which the person is provided access, unless otherwise permitted in a contract entered into under sub. (5).

(5) A county or municipality may contract with the vendor of an electronic voting system to permit a greater degree of access to software components used with the system than is required under sub. (4).

SECTION 5. 5.91 (18) of the statutes, as created by 2003 Wisconsin Act 265, is amended to read:

5.91 (18) ~~It produces a permanent paper record of the vote. If the device consists of an electronic voting machine, it generates a complete, permanent paper record showing all votes cast by each elector at the time that it is cast, that is verifiable by the elector, by either visual or nonvisual means as appropriate, before the elector leaves the voting area, and that enables a manual count or recount of the elector's each vote cast by the elector.~~

SECTION 6. Nonstatutory provisions.

(1) Each vendor of an electronic voting system that is approved for use in this state under section 5.91 of the statutes on the effective date of this subsection or that obtains such approval for its system before the effective date of rules promulgated by the board under section 5.905 (3) of the statutes, as created by this act, shall provide to the elections board the software components required under section 5.905 (2) of the statutes, as created by this act, no later than 90 days after the effective date of those rules.

SECTION 7. Initial applicability.

(1) This act first applies with respect to elections held on the effective date of this subsection.

SECTION 8. Effective date.

(1) This act takes effect on January 1, 2006, or the day after publication, whichever is later.
